

COMBINED SUPPLEMENTAL DECLARATION AND POWER OF ATTORNEY

As the named inventors, we hereby declare that our respective residences, post office addresses and citizenship are as stated below following our individual names; that we verily believe that we are the original, first and sole inventors of the invention entitled:

AN INTERACTIVE COMPUTER NETWORK AND METHOD OF OPERATION

which is described and claimed in the attached specification, that we have reviewed and understand the contents of the attached specification, including the claims, as amended by any amendment specifically referred to herein, that we do not know and do not believe the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by us or our respective legal representatives or assigns more than twelve months prior to this application, that we acknowledge our duty to disclose information of which we are aware that is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by us or our respective legal representatives or assigns.

We hereby appoint the following attorney to prosecute this application and to transact all business in the Patent and Trademark Office in connection therewith:

Paul C. Scifo, Esq.

Registration No. 27,089

Address all telephone calls to Paul C. Scifo, Esq. at telephone number 1-212-513-1122, and address all correspondence to:

Paul C. Scifo, Esq,
233 Broadway, Suite 4703
New York, New York 10279.

5 We hereby declare that all statements made by us herein of our
respective own knowledge are true and that all statements made on
information and belief are believed to be true; and further that these
statements were made with the knowledge that willful false statements
and the like are punishable by fine or imprisonment, or both, under
Section 1001 of Title 18 of the United States Code, and that such
10 willful false statements may jeopardize the validity of the
application or any patent issued thereon.

1-00 INVENTOR: Robert Filepp, SIGNATURE: Robert Filepp;
DATE: November 24, 1993;
RESIDENCE: 237 Baltusrol Ave., Springfield, N.J. 07081; NJ
15 POST OFFICE ADDRESS: 237 Baltusrol Ave., Springfield, N.J. 07081;
CITIZENSHIP: United States of America.

2-00 INVENTOR: Michael L. Gordon, SIGNATURE: Michael L. Gordon
DATE: November 24, 1993;
RESIDENCE: 34 Hickory Hill Drive, Dobbs Ferry, N.Y. 10522; NY
20 POST OFFICE ADDRESS: 34 Hickory Hill Drive, Dobbs Ferry, N.Y. 10522;
CITIZENSHIP: United States of America.

3-00 INVENTOR: Alexander W. Bidwell, SIGNATURE: A.W. Bidwell;
DATE: November 24, 1993;
RESIDENCE: 248 East 7th Street, New York, N.Y. 10009; NY
25 POST OFFICE ADDRESS: 248 East 7th Street, New York, N.Y. 10009;
CITIZENSHIP: United States of America.

4-00 INVENTOR: Francis C. Young, SIGNATURE: Francis C. Young
DATE: November 24, 1993;
RESIDENCE: 35 Maple Shade Drive, Pearl River, N.Y. 10956; NY
30 POST OFFICE ADDRESS: 35 Maple Shade Drive, Pearl River, N.Y. 10956;
CITIZENSHIP: United States of America.

5-00 INVENTOR: Allan M. Wolf,
DATE: November 24, 1993;

SIGNATURE: Allan M. Wolf

RESIDENCE: 127 Fieldcrest Drive, Ridgefield, Conn. 06877; CT

POST OFFICE ADDRESS: 127 Fieldcrest Drive, Ridgefield, Conn. 06877;

5 CITIZENSHIP: United States of America.

6-00 INVENTOR: Sam Meo,
DATE: November 24, 1993;

SIGNATURE: Sam Meo

RESIDENCE: 108 Perry Street New York, N.Y. 10014; NY

POST OFFICE ADDRESS: 108 Perry Street New York, N.Y. 10014;

10 CITIZENSHIP: United States of America.

7-00 INVENTOR: Duane Tiemann,
DATE: November 24, 1993;

SIGNATURE: Duane Tiemann

RESIDENCE: 50 Orchard Drive, Ossining, N.Y. 10562; NY

POST OFFICE ADDRESS: 50 Orchard Drive, Ossining, N.Y. 10562;

15 CITIZENSHIP: United States of America.

8-00 INVENTOR: Lawrence Abrahams,
DATE: November 24, 1993;

SIGNATURE: Lawrence Abrahams

RESIDENCE: 53 Maple Ave., Apt 2A, Hastings-on-Hudson, N.Y. 10706; NY

POST OFFICE ADDRESS: 53 Maple Ave., Apt 2A, Hastings-on-Hudson, N.Y.

20 10706;

CITIZENSHIP: United States of America.

9-00 INVENTOR: Michael J. Silfen,
DATE: November 26, 1993;

SIGNATURE: Michael J. Silfen

RESIDENCE: 8 Prospect Place Croton-on-Hudson, N.Y. 10520; NY

25 POST OFFICE ADDRESS: 8 Prospect Place Croton-on-Hudson, N.Y. 10520;

CITIZENSHIP: United States of America.

10-00 INVENTOR: Aldo R. Dalsass,
DATE: November 24, 1993;

SIGNATURE: Aldo R. Dalsass

RESIDENCE: Glen Grey Road Oakland, N.J. 07436; NJ

30 POST OFFICE ADDRESS: Glen Grey Road Oakland, N.J. 07436;

CITIZENSHIP: United States of America.



11-00 INVENTOR: Florence M. Lee,
DATE: November 24, 1993;
RESIDENCE: 173 Guinea Road, Stamford, Conn. 06903;
POST OFFICE ADDRESS: 173 Guinea Road, Stamford, Conn. 06903;
5 CITIZENSHIP: United States of America.

SIGNATURE: Florence M. Lee
CT

12-00 INVENTOR: Kenneth H. Appleman, SIGNATURE: K Appleman;
DATE: November 14, 1993;
RESIDENCE: 96 Holland Ave., White Plains, N.Y. 10603 NY
POST OFFICE ADDRESS: 96 Holland Ave., White Plains, N.Y. 10603;
10 CITIZENSHIP: United States of America.

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Addressee, Number G803625999, in an envelope addressed to the:
Commissioner of Patents and Trademarks, Washington, D.C. 20231, on
15 November 26, 1993.

Name of Registered Representative: Paul C. Scifo, Reg. No. 27,089
Signature: Paul C. Scifo
Date: November 26, 1993

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As the named inventors, we hereby declare that our respective residences, post office addresses and citizenship are as stated below following our individual names; that we verily believe that we are the original, first and sole inventors of the invention entitled:

AN INTERACTIVE COMPUTER NETWORK AND METHOD OF OPERATION which is described and claimed in the attached specification, that we have reviewed and understand the contents of the attached specification, including the claims, as amended by any amendment specifically referred to herein, that we do not know and do not believe the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof more than one year prior to this application, that the same was not in public use or on sale in the United states of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by us or our respective legal representatives or assigns more than twelve months prior to this application, that we acknowledge our duty to disclose information of which we are aware that is material to the examination of this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by us or our respective legal representatives or assigns.

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information and belief are believed to be true; and further that these
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20 POST OFFICE ADDRESS: 34 Hickory Hill Drive, Dobbs Ferry, N.Y. 10522;
CITIZENSHIP: United States of America.

3-00 INVENTOR: Alexander W. Bidwell, SIGNATURE: Alex. Bidwell;
DATE: November 24, 1993;
RESIDENCE: 248 East 7th Street, New York, N.Y. 10009; NY
25 POST OFFICE ADDRESS: 248 East 7th Street, New York, N.Y. 10009;
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DATE: November 24, 1993;
RESIDENCE: 35 Maple Shade Drive, Pearl River, N.Y. 10956; NY
30 POST OFFICE ADDRESS: 35 Maple Shade Drive, Pearl River, N.Y. 10956;
CITIZENSHIP: United States of America.

500 INVENTOR: Allan M. Wolf,
DATE: November 24, 1993;

SIGNATURE: Allan M. Wolf
CT

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POST OFFICE ADDRESS: 127 Fieldcrest Drive, Ridgefield, Conn. 06877;

5 CITIZENSHIP: United States of America.

600 INVENTOR: Sam Meo,
DATE: November 24, 1993;

SIGNATURE: Sam Meo

RESIDENCE: 108 Perry Street New York, N.Y. 10014; NY

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700 INVENTOR: Duane Tiemann,
DATE: November 24, 1993;

SIGNATURE: Duane Tiemann

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15 CITIZENSHIP: United States of America.

800 INVENTOR: Lawrence Abrahams,
DATE: November 24, 1993;

SIGNATURE: Lawrence Abrahams

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POST OFFICE ADDRESS: 53 Maple Ave., Apt 2A, Hastings-on-Hudson, N.Y.

20 10706;

CITIZENSHIP: United States of America.

900 INVENTOR: Michael J. Silfen,
DATE: November 26, 1993;

SIGNATURE: Michael J. Silfen

RESIDENCE: 8 Prospect Place Croton-on-Hudson, N.Y. 10520; NY

25 POST OFFICE ADDRESS: 8 Prospect Place Croton-on-Hudson, N.Y. 10520;

CITIZENSHIP: United States of America.

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DATE: November 24, 1993;

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CT

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DATE: November 14, 1993;
RESIDENCE: 96 Holland Ave., White Plains, N.Y. 10603 NY
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Commissioner of Patents and Trademarks, Washington, D.C. 20231, on
November 26, 1993.

Name of Registered Representative: Paul C. Scifo, Reg. No. 27,089
Signature: Paul C. Scifo
Date: November 26, 1993

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Appln. of: Robert Filepp et al.

Group Art Unit: To Be Assigned

Serial No.: To Be Assigned

Examiner: To Be Assigned

Filed: September 6, 2000

Title: INTERACTIVE COMPUTER SYSTEM AND
METHOD OF OPERATION

REQUEST FOR DECLARATION OF AN INTERFERENCE UNDER 37 C.F.R. §1.607

The Assistant Commissioner of Patents
Washington, DC 20231

Sir:

Pursuant to the provisions of 37 C.F.R. §1.607, Applicants respectfully request that an interference be declared between their above-identified patent application ("the Filepp et al. application") and U.S. patent number 5,948,061 issued to Merriman et al. ("the Merriman et al. patent"). The Merriman et al. patent issued on September 7, 1999 from application serial number 08/738,634, filed October 26, 1996. A copy of the Merriman et al. patent is annexed hereto as Exhibit A.

The Filepp et al. application is a continuation of application serial number 08/933,500 filed September 17, 1997, and was filed specifically to provoke an interference with the Merriman et al. patent by claiming in the Filepp et al. application, the same subject matter that is claimed in Merriman et al. patent Claims 1-50.

The claims of the Filepp et al. application, filed pursuant to 35 U.S.C. 120, correspond, respectively, to the claims of the Merriman et al. patent as follows:

Filepp et al. Application Claims

1 - 13;
14 - 16;
17 - 18;
19;
20 - 35;
36 - 37;
38 - 40;
41 - 46;
47 - 50;
51;

Merriman et al. Patent Claims

1 - 13;
17 - 19;
14 - 15;
16;
20 - 35;
40 - 41;
42 - 43;
45 - 50;
36 - 39;
16.

All the claims of the Filepp et al. application are supported by the Filepp et al. disclosure. Applicants should be named the senior party in the interference because the Merriman et al. earliest effective filing date is October 26, 1996 which is substantially later than the effective filing date of July 28, 1989 which Applicants are entitled to.

PROPOSAL OF COUNTS

Applicants propose the following Count I for the interference. Count I is directed to a computer network featuring elements for enabling advertising "targeted" to the user to be presented at a user computer in connection with a user request for information available on the network. The network relies on three (3) principal element to accomplish that objective: a user computer; a network content host; and an advertisement host, respectively arranged to cooperate in the identification and supply of the advertising to the user computer for its eventual presentation.

The Count is as follows.

Proposed Count

Count I

A computer network comprising:

A user computer having a content-display program coupled to the network, the user computer capable of submitting requests for content information available on the network;

A content host responsive to requests for content information from the user computer to provide content information, advertising display-space information for display of advertising content, and a location designation to the user computer; and

An advertisement host responsive to a request from the user computer based on the location designation to select advertising content for the advertising space, and to reply to the request from the user computer by identifying the advertising content to the user computer,

Whereby the advertising content identified by the advertisement host is acquired by the user computer and displayed in the advertising space.

IDENTIFICATION OF CLAIMS CORRESPONDING TO PROPOSED COUNT

A. Claims of the Merriman et al. Patent;

As noted, proposed Count I concerns a computer network for addressing the objective of providing users advertising believed likely to be of interest to the user; i.e., "targeted" to the user, the network featuring elements for enabling targeted advertising to be presented at a user computer in connection with a user request for information available on the network. As noted, Count I is directed to a network featuring 3 principal elements in combination and arranged to accomplish that end, particularly, a user computer; a network content host; and an advertisement host, disposed to cooperate in the identification and supply of the advertising to the user computer for presentation. Claims 1-50 of the Merriman et al. patent correspond to the invention presented in proposed Count I.

Merriman et al. patent Claim 1, correspond to Count I. Specifically, Claim 1 expressly recites the 3 principal element of Count I, and describes them to cooperate in the manner

indicated in Count I. Specifically, Claim 1 recites : a “user node ... providing requests for information on ... (the) network”; “a content ... node ... responsive to requests for content information from the user computer ”; and an “advertisement server node” for the purpose of enabling advertising be supplied to the user node. Yet additionally, Merriman et al. Claim 1 includes a further element identified as an “advertiser node” which is provided to supply the noted advertising content. Accordingly, Claim 1 recites the 3 principal elements of Count I to carry out network operation, as supported in that operation by a 4th element. Claim 1, therefore, is encompassed by Count I, and thus corresponds to Count I.

Claim 2 of the of the Merriman et al. patent depends from network Claim 1, and, by its dependency, likewise is directed to network apparatus featuring the noted 3 principal elements described for Claim 1, which as explained, corresponds to the same elements recited in Count I, as supported by the noted “advertiser node” which contains the advertising content to be supplied. Additionally, in Claim 2, Merriman et al. recite that the “advertisement server node selects ... (the) advertiser node based on the number of times ... (the) advertising content has been previously displayed at ... (the) user node,” but, recites no further structural or functional limitations. Accordingly, Claim 2 is within the scope of Count I, and, thus, maintains correspondence with Count I.

Merriman et al. Claim 3 also depends from network Claim 1, and, thus again, by its dependency, includes the noted 3 principal network elements corresponding to the network and elements of Count I, again as supported by the “advertiser node.” By recital in Claim 3, Merriman et al. notes that the “advertisement server node selects ... (the) advertiser node based on the characteristics of ... (the) user,” however, no further structural or limitation are provided. As a result, Claim 3 also remains within the scope of Count I, and maintains correspondence with Count I.

Merriman et al. Claim 4 is again a dependent network apparatus claim, depending from Claim 3, and by its dependency once again includes the 3 principal network elements and operation of Claims 3 and 1, which as described corresponds to the elements of Count I as supported by the "advertiser node." Claim 4 also recite a list of "user characteristics" upon which selection of the "advertiser node" is made at the "advertisement node", but, provides no additional limitations. Therefore, Claim 4 remains within the scope of Count I, and maintains correspondence with Count I.

Claim 5 of the Merriman et al. patent is also a dependent network apparatus claim, and depends from Claim 1. As a result, Claim 5, likewise, includes the 3 principal network elements as combined in Claim 1 as supported by the "advertiser node", which as explained, correspond to Count I. Additionally, in Claim 5 the "link message" expressed in Merriman et al. Claim 1, which corresponds to the "location designation" recited in Count I, is described as an "HTML tag." Accordingly, Claim 5 is within the scope of Count I, and, maintains correspondence with Count I.

Merriman et al. Claim 6, is again a dependent apparatus claim, dependent from Claim 1, and by its dependency is directed to a network, once again, including the 3 principal network elements combined in Claim 1 as supported by the advertiser node, which as explained, correspond to Count I. By recital in Claim 6, the "link message" corresponding to the "location designation" of Count I, is described as "an HTTP redirect message containing an IP address used to redirect ... (the) user node to ... (the) advertisement server node," which, is a location designation. Accordingly, Claim 6 maintains correspondence with Count I.

As to Merriman et al. Claim 7, it is in independent form, and, again, concerns a network apparatus featuring the 3 principal elements and their associated operation which correspond with the network and elements of Count I as supported by the advertising-content containing advertiser nodes. As seen in Claim 7, Claim 7 recites

substantially same elements and limitations as Claim 1, with minor modification relative to Claim 1. Specifically, Claim 7, is directed to an "advertisement server node" in a network also including a "user node" and a "content provider node" as supported by the "advertiser node", however, instead of reciting simply a single "advertiser node", Claim 7 recites a plurality of "advertiser nodes ... including respective advertising content." In all its other aspects, Claim 7 is the same as Claim 1. Accordingly, Claim 7 includes the "user computer"; "content host"; and "advertisement host" as recited in Count I as supported by the advertiser nodes, and is with in the scope encompassed by Count I, and corresponds to Count I.

With regard to Merriman et al. Claims 8, 9, 10, 11 and 12, these claims are all dependent, and either directly or sequentially from Claim 7. As a result, each of Claims 8-12 likewise concerns the 3 principal network elements recited for Claim 7 and Claim 1 as supported by the advertiser nodes. Still further, claims 8-12 are otherwise, respectively, identical to Claim 2-6 which depend from claim 1. Accordingly, for the reasons noted both for Claim 1 and Claims 2-6, Claims 8-12 are with the scope of Count I, and correspond to Count I.

Continuing, as to Merriman et al. Claims 13, 17-19 and 14, 15, the noted pattern of parallel construction following from Claims 1-6 and Claims 7-12, is again repeated in Merriman et al. Claims 13, 17-19 and 14, 15. As in the case of Claims 1 and 7, Merriman et al. Claim 13 is in independent apparatus form and concerns a "content provider ... node" in a network also including a "user node"; and an "advertisement server node" as supported by "an advertiser ... node" having advertising content; cooperative together to enable reply to user-node requests for advertising content. As a result, Claim 13 once again includes the 3 principal network elements arranged and operative in combination as described in Claims 1 and 7 as supported by advertiser node advertising content. Accordingly, and for the reasons previously noted, regarding Claims 1 and 7, Claim 13, likewise, is with the scope of Count I and corresponds to Count I.

With regard to Merriman et al. Claims 17-19, these claims are in dependent apparatus form, and concern features of the described network elements. Claims 17-19, however, are worded to, respectively, directly or indirectly depend from Claim 16. But, while Claims 17-19 make reference to the "advertiser node," there is no recital of the "advertiser node" in Claim 16. Accordingly, to maintain validity of Claims 17-19, it is assumed that the dependency from Claim 16 is in error, and should be rather, dependency from; e.g., Claim 13, the only independent claim having the required recital of the "advertiser node" not already including dependent claims having the content of Claims 17-19. However, since Claims 17-19 are otherwise, respectively, identical to Claim 2-4 which depend from Claim 1, and Claims 8-10 which depend from Claim 7, for the reasons noted for Claim 2-4, and 8-10, Claims 17-19 are likewise within the scope of Count I, and correspond to Count I.

Continuing, Merriman et al. Claims 14, 15 are again in dependent form, depending from Claim 13, and further have parallel construction to claims 5, 6 which depend from Claim 1 and Claims 11, 12 which depend from Claim 7, all of which are claims having 3 principal element as supported by the advertiser node and correspond to Count I. Accordingly, for the reasons give above concerning Claims 1, 5, 6 and 7, 11, 12, Claims 14, 15 likewise correspond to Count I.

Claim 16 of the Merriman et al. patent corresponds to the proposed Count I. Merriman et al. Claim 16 is in independent claim form and directed to a network featuring 3 elements arranged to provide advertising to a networked user computer for display. The network is described in the Claim 16 as including: "a user node"; "a content provider affiliate node having a respective affiliate web site"; and "an advertisement server"; which, respectively, are recited as operating in the same fashion as recited in Count I. Accordingly, the elements of Claim 16 and their associated operation directly correspond to the 3 principal elements of recited in Count I, namely, the "user computer"; "content

host"; and "advertisement host." Claim 16 is thus encompassed by Count I and corresponds to Count I.

Claim 20 of the Merriman et al. patent is a dependent network apparatus claim, and depends from Claim 16. As a result, Claim 20, likewise, includes the 3 principal network elements as combined in Claim 16, which as explained, correspond to Count I. Additionally, Claim 20 expressly adds the noted "advertiser node" for supporting the network and its 3 principal elements with advertising content. Accordingly, Claim 20 is within the scope of Count I, and, maintains correspondence with Count I.

Claim 21 of the of the Merriman et al. patent also depends from Claim 16, and, by its dependency, likewise is directed to network apparatus featuring the noted 3 principal elements corresponds to the same elements recited in Count I. Additionally, in Claim 21, the "link message" express in Merriman et al. Claim 16, which corresponds to the "location designation" recited in Count I, is described as an "HTML tag." Accordingly, Claim 21 is within the scope of Count I and, thus, maintains correspondence with Count I.

Merriman et al. Claim 22 yet also depends from Claim 16, and thus again includes the noted 3 principal network elements corresponding to the network and elements of Count I. By recital in Claim 22, the "link message" corresponding to the "location designation" of Count I, is described to be "an HTTP redirect message containing an IP address used to redirect said user node to said advertisement server node," which, is a location designation and, accordingly, maintaining correspondence with Count I.

As to Merriman et al. Claim 23, it is in independent form, and, again, concerns a network apparatus featuring 3 principal elements in correspondence with the network and elements of Count I. In fact, Claim 23, includes the same elements and limitations as Claim 16, and is simply a restatement of Claim 16. Specifically, Claim 23, is directed to an "advertisement server node" in a network also including a "user node" and a "content

provider node", and, accordingly, includes the "user computer"; "content-provider host"; and "advertisement host" recited in Count I. Accordingly, Claim 23 is within the scope of Count I and, thus, corresponds to Count I.

Merriman et al. Claims 24 depend from Claim 23, and, likewise, by dependency is directed to network apparatus featuring the noted 3 principal elements corresponding to the network and elements of Count I. Additionally, Merriman et al. Claim 24 recites that the "advertisement server node" selects the advertising banner noted in Claim 23 based on the number of times the advertising content has been previously displayed at the user computer; and since these features are within the scope of Count I, maintains consistence and correspondence with Count I.

Claim 25 of the Merriman et al. patent also depends from Claim 23, and again features the noted 3 principal network elements which correspond to the network and elements of Count I. Further, Merriman et al. Claim 24 recites that the referenced "advertising banner" is selected based on "user characteristics." Here again, the recited features are within the scope of Count I, and maintain consistence and correspondence with Count I.

Merriman et al. Claim 26 also depends from Claim 23, and again by dependency includes the noted 3 principal network elements of Claims 23, and 16 and, thus, maintains correspondence with Count I. Claim 26, further, describes a group of user characteristics from which selection of the recited "advertising banner" may be undertaken. Once again, the recited features are within the scope of Count I, and maintain consistency and correspondence with Count I.

Claims 27 and 28 of the Merriman et al patent also depend for Claim 23, and likewise maintain correspondence with Count I by recital of the noted 3 principal network elements of Claims 23 and 16 which correspond to the elements of Count I. Further, Claims 27 and 28 again recited the features of previously described Claims 21 and 22; i.e., the noted

features relating to the recited "link message" corresponding to the "location description" recited in Count I. According, in view of the similarity between Claims 23, 27, 28 and Claims 16, 21 and 22, for the reasons note in connection with Claims 21 and 22, Claims 27 and 28 also correspond to Count I.

Merriman et al. Claim 29 is yet another independent apparatus claim which recites the same 3 principal network element and configuration recited in Claims 23 and 16, though restated. Accordingly, for the reasons noted with regard to Claims 23 and 16, Claim 29, likewise corresponds to Count I.

As to Claim 30 and 31, they respectively depend form Claim 29, and once more feature the noted 3 principal network elements which maintain correspondence with Count I. Further, Claims 30 and 31 concern the same features as recited in Merriam et al Claims 27 and 28, and Claims 21 and 22 above described. Accordingly, for the reasons noted above in connection with those claims, Claims 30 and 31 also are consistent with and correspond to the subject matter of Count I.

With regard to Merriman et al. 32-35, the noted pattern of parallel construction for Claims 1-6; Claims 7-12; and Claims 13, 17-19 and 14, 15 is once again repeated in Merriman et al. Claims 32-35, 40, 41. Specifically Claim 32 is in independent apparatus form and concerns a "content provider ... node" in a network also including a "user node"; "an advertiser ... node" including advertising content; and an "advertisement server node" responsive to user node requests for advertising. As a result, Claim 32 once again includes the 3 principal network elements arranged in combination as supported by "advertiser node" advertising content provider, described in Claims 1, 7 and 13. Accordingly, and for the reasons previously noted, Claim 32, likewise, corresponds to Count I. Further, Claims 33-35, 40, 41, are found to depend, directly or indirectly from Claim 32, rendering them apparatus claims concerning the a network of the 3 principal network element type supported with advertising content from the advertiser node. Further Claims 33-35, 40, 41,

are found also to be of parallel construction to Claims 2-6; 8-12; and 17-19, 14, 15. Accordingly, for the reasons noted above, regarding Claims 2-6; 8-12; and 17-19, 14, 15, Claims 33-35, 40, 41 also are within the scope of Count I and correspond to Count I.

As to Merriman et al. Claim 36, though it is styled a method claim, it recites dependence from apparatus claim 35. Since dependence of method claims from apparatus claims is improper, it is presumed that Merriman et al. intended that Claim 26 be a method claim for an apparatus as described in Claim 35, which itself is dependent from Merriman et al. independent network apparatus Claim 32. With that assumption undertaken, Claim 36 is found to concern a 3 element network again supported with advertising content from the "advertiser node." In that regard, Claim 32 notes it further including the method step that the advertisement node selects an advertising banner; i.e., advertising content, based on user characteristics. Accordingly, Claim 36 concerns method steps which directly express operation of the network and associated elements described above in: Claims 1-6; 7-12; 13, 17-19, 14 15; and 32 -35, 40, 41. As such, Claim 36 for the reasons noted in connection with the referenced claims, is with the scope of Count I and corresponds to Count I.

Merriman et al. Claims 37, 39 are also directed to a network method, and depend, respectively, directly and indirectly from Claim 36. Therefore, Claims 37 and 39 are likewise considered to be method claims which express operation the 3 element network supported with advertiser node advertising content. Accordingly, for the reasons noted with respect to Claim 36 and the referenced apparatus Claims 1-6; 7-12; 13, 17-19, 14 15; and 32 -35, 40, 41, Claims 37, 39 are within the scope of Count I and corresponds to Count I.

As to Merriman et al. Claim 39 exhibits the same form as Claim 36; i.e., a recited method claim drawn to be dependent on an apparatus claim; i.e, Claim 35. However, once Claim 39 is interpreted as Claim 36; i.e., a method claim concerning the apparatus it recites dependence from, it is found to be comparable to Claim 36, and accordingly, for the

reasons noted with respect to Claim 36, Claim 38 is likewise considered to correspond to Count I.

Merriman et al. Claim 42 is in independent form, and is directed to a method for operating a network, the network described as including 3 principal elements, specifically, a "user node"; "content provider affiliate node"; and an "advertisement server node" which correspond to the network elements of Merriman et al. apparatus Claim 16, and Count I. Further, Merriman et al. Claim 42 recites some 6 steps for effecting presentation of the advertising at the user computer which correspond to the 6 steps recited in Count II. Specifically, Merriman et al. claim 42 recites the steps of: (1) "sending a request for information from ... (the) user node to .. (the) affiliate web site (content provider affiliate node) requesting information"; (2) "sending a reply from... (the) affiliate web site (content provider affiliate node), responsive to ... (the) request ... containing ... content, ... space for display of advertising content and a link message to ... (the) user node "; (3) "sending a request from... (the) user node based on ... (the) link message to ... (the) advertising server web site (advertisement server node) to provide an advertising banner for ... (the) advertising space"; (4) "selecting, at ... (the) advertising server web site, (advertisement server node) an advertising banner"; (5) "sending a reply from ... (the) advertising server web site (advertisement server node) identifying ... (the) advertising banner to ... (the) user node"; and (6) "displaying ... (the) advertising banner in ... (the) advertising space at ... (the) user node."

As comparison with Count I shows, the 6 steps of Merriman et al Claim 42 directly express operation of the 3 principal elements of Count I and the network Count I defines. Accordingly, since Claim 42 concerns method steps which directly express operation of the network as defined in Count I, Claim 42 is within the scope of Count I and corresponds to Count I.

Merriman et al. Claim 43 is also a method claim, depends for Merriman et al. method Claim 42, and by its dependency, includes the described 6 steps of Claim 42 concerning the noted 3 elements of the Count I network. Accordingly, Claim 43, likewise corresponds to method Count I. Further, Claim 43, in like effect to Merriman et al. apparatus Claim 21, notes the "link message" which corresponds to the "location designation" recited in Count I is an "HTML tag." And, as noted with respect to Claim 21, since the recited "HTML tag" in Claim 43 is within the scope of the "location designation" of Claims 42 and 16, Claim 43, thus, additionally corresponds to the network apparatus described Count I. Accordingly, since Claim 43 concerns method steps which directly express operation of the network elements as recite in Count I, Claim 43 is within the scope of Count I and corresponds to Count I.

With regard to Merriman et al. method Claim 44, it also depends from Claim 42, and, like Claim 43, accordingly, includes the same 6 method step recited for Claim 42; and by the reasoning noted with respect to Claim 43, Claim 44 also corresponds to Count I in view of the noted step inclusion. Further, Claim 43 is comparable to apparatus Claim 22, in that Claim 43 also recites that the "link message" which, as noted, corresponds to the "location designation" of Counts I and II, is "an HTTP redirect message containing an IP address used to redirect said user node to said advertisement server node." Accordingly, for the same reasons noted above, since Claim 44 concerns method steps which directly express operation of the network elements as recite in Count I, Claim 44 also is within the scope of Count I and corresponds to Count I.

Merriman et al. Claim 45 is in independent form, corresponds to the proposed Count I, and is directed to a method for operating a network, the network described as including the 3 elements, above noted, specifically, a "user node"; "content provider affiliate node"; and "advertisement server node", as supported with advertising content from the "advertiser node" which correspond to the network elements of Merriman et al. independent apparatus Claims 1, 7, 13, 32, and Count I. Further, Merriman et al. Claim

45 recites some 8 steps for effecting presentation of the advertising at the user computer, which correspond to the elements of Claims 1, 7, 13, 32, and Count I as supported with advertising content for the advertiser node.

With regard to Merriman et al. method Claim 45, it recites the 6 steps of method Claim 42 described above plus 2 additional steps concerning: the sending of a request for advertising to the advertising node and the advertiser node sending a reply including the advertising content for display at the user node. Specifically, Claim 45 includes the steps of the steps of: "sending a request for information from ... (the) user node to .. (the) affiliate web site (content provider affiliate node) requesting information"; "sending a reply from... (the) affiliate web site (content provider affiliate node), responsive to ... (the) request ... containing ... content, ... space for display of advertising content and a link message to ... (the) user node"; "sending a request based on ... (the) link message from... (the) user node to ... (the) advertisement server node to select an advertiser node"; "selecting, at ... (the) advertisement server node an advertiser node"; "sending a reply from ... (the) advertisement server node to ... (the) user node identifying ... (the) selected advertiser node"; "sending a request from ... (the) user node to ... (the) advertiser node"; sending a reply from ... (the) advertiser web site to ... (the) user node"; and, thereafter, "displaying ... (the) advertising content at ... (the) user node."

As seen in Count I, the noted 8 method steps of Merriman et al. Claim 45 correspond to the method steps of Count I as supported with advertising content from the advertiser node. Accordingly, since Claim 45 concerns method steps which directly express operation of the network elements as recite in Count I, Claim 43 is within the scope of Count I and corresponds to Count I.

Continuing, Merriman et al. Claims 46-50 are directed to dependent claims that depend directly or indirectly from Claim 45, and accordingly concern method aspects of a network including the above-noted 3 principal network elements as supported with advertising

content for the advertiser node. In fact, on review it is seen that dependent method Claims 46-50 include steps having parallel construction to the apparatus claims that depend from the apparatus independent claims; e.g., Claims 1, and its associated dependent apparatus Claims 2-6, Claim 7, and its associated dependent claims 8-12; Claim 13, and its associated dependent Claims 17-19, 14, 15, as well as Claim 32 and associated dependent Claims 33-35, and 40, 41. Accordingly, for the reasons there describe, the steps recited in dependent Claims 46-50 are within the scope of the network defined by Count I, and, since Claims 46-50 concern method steps which directly express operation of the network elements as recite in Count I, Claims 46-50 are within the scope of Count I and corresponds to Count I.

B. Claims of the Filepp et al. Application;

Since the Filepp et al. application concerns the same subject matter as the Merriman et al. patent, specifically, the delivery of targeted advertising for display at networked user computers, and is capable of doing so with the same 3 network elements, either alone or as supported with advertising content for an advertiser host, as claimed in the Meriman et al. patent, it follows that the Filepp et al. claims also directly correspond to proposed Count I. Accordingly, the Filepp et al. claims, not only directly and respectively correspond to proposed Count I, but also, to the above-noted respective Merriman et al. claims.

As explained above, proposed Count I concern a computer network for delivering advertising "targeted" to users. As described, Count I is directed to a network featuring 3 principal, computer-based elements in combination and arranged to enable targeted advertising to be presented at a user's computer. Additionally, Count I also encompasses a network that may be supported with advertising content from an advertising host.

Filepp et al. Claims 1 corresponds to the proposed Count I, and is directed to network a featuring the 3 elements which correspond to the 3 principal elements identified above for Count I. Specifically, Filepp et al Claim 1 includes: "a user reception system", "a content host"; and "an advertisement host." Further, Claim 1 additionally is seen to be supported with advertising content from an "advertiser host", the advertiser host having advertising content that the user reception system can be directed to in the course of network operation to receive advertisement for display at the user reception system.

The noted 3 network elements of Filepp et al Claim 1 as supported with advertising content from the advertiser host, correspond to the network defining elements of Count I. Specifically, Count I expressly recites: a "user computer ... capable of submitting requests for content information"; "a content host ... responsive to requests for content information from the user computer "; and "advertisement host responsive to a request from the user computer" to which the Filepp et al. Claim 1 noted "user reception system", "a content host"; and "advertisement host"; as supported by the advertiser host correspond. Filepp et al. Claim 1 is within the scope of Count I and corresponds to Count I.

Claim 2 of the of the Filepp et al. application depends from network Claim 1, and, by its dependency, likewise is directed to network apparatus featuring the 3 elements described for Claim 1 as supported by the advertiser host, which as explained, corresponds to the elements recited in Count I. Additionally, in Claim 2, Filepp et al. recite that the "advertisement host selects the advertiser host based on the number of times ... the advertising content has been previously displayed at the user reception system. Accordingly, Claim 2 is within the scope of Count I, and, thus, maintains correspondence with Count I.

Filepp et al. Claim 3 also depends from network Claim 1, and, thus again, by its dependency, includes the noted 3 principal network elements as supported with advertising content for the advertiser host as corresponds to the network and elements of

Count I. By recital, Filepp et al. Claim 3 notes that the “advertisement host selects the advertiser host based on the characteristics of the user.” As a result, Claim 3 also remains within the scope of Count I, and maintains correspondence with Count I.

Filepp et al. Claim 4 is again a dependent network apparatus claim, depending from Claim 3, and by its dependency once again includes the 3 network elements as supported by the advertiser host of Claims 3 and 1, which as described corresponds to Count I. Claim 4 does recite a list of “user characteristics” upon which selection of the “advertiser host” is made at the “advertisement host”, but, does not otherwise change to the subject matter of the claim. Therefore, Claim 4 remains within the scope of Count I, and maintains correspondence with Count I.

Claim 5 of the Filepp et al. application is also a dependent network apparatus claim, and depends from Claim 1. As a result, Claim 5, likewise, includes the 3 principal network elements as combined in Claim 1 as supported by the “advertiser node”, which as explained, correspond to Count I. Additionally, in Claim 5 the “location designation” expressed in Filepp et al. Claim 1, which corresponds to the “location designation” recited in Count I, is described as “a code associated with the content information.” Accordingly, Claim 5 is within the scope of Count I, and, maintains correspondence with Count I.

Filepp et al. Claim 6, is again a dependent apparatus claim, dependent from Claim 1, and by its dependency is directed to a network, once again, including the 3 principal network elements combined in Claim 1 as supported by the advertiser node, which as explained, correspond to Count I. By recital in Claim 6, the “location designation” corresponding to the “location designation” of Count I, is described as a redirect message containing an network address used to redirect the user reception system to the advertisement host. Accordingly, Claim 6 is with the scope of Count I and maintains correspondence with Count I.

Filepp et al. Claims 7-12, show parallel construction to Claims 1-6, and evidence no material change over Claims 1-6. Accordingly, for the reasons noted in connection with the correspondence of Claims 1-6, Claims 5-8, likewise, correspond to Count I.

Further, Filepp et al. Claims 13 -18 are yet again constructed to recite substantially the same subject matter as Claim 1-6, respectively, and Claims 7-12, respectively. Accordingly, for the reasons noted with respect to Claims 1-6 and 7-12, concerning correspondence to Count I, Claims 13-18 are also found to correspond with Count I.

As to Filepp et al. Claim 14, though it is dependent on Claim 10 and the network recited in Claim 10, Claim 14 further recites inclusion of the an "advertiser host" in the network, rendering Claim 14 a 3 element network supported by the advertiser host comparable to the networks of Claims 1, 5, and 9. Accordingly, for like reasons, underlying the correspondence of Claims 1, 5, and 9 to Count I, Claim 14 is found to correspond to Count I.

Still further, Filepp et al. claims 20-23 again show parallel construction to Claims 1-4, 5-8 and 9, 11-13. Accordingly, again for the reasons noted concerning correspondence of claims 1-4, 5-8 and 9, 11-13, to Count I, above described, Claims 20-23 correspond to Count I.

With regard to the Filepp et al. claims, as is apparent from review them, claims 10, and 15-19 correspond to the network apparatus embodiment encompassed by Count I. Specifically, Filepp et al. Claim 10 is an independent network apparatus claim that features 3 elements, namely, a "user reception system" described in the Filepp et al. disclosure as a networked computer system that enables a user to request, receive and display networked information including targeted advertising; a "content host" for providing screen content information, screen space; i.e., partitions, for presenting advertising and a location designation for enabling the user computer to locate targeted advertising for

display; and an "advertisement host" to enable selection of targeted advertising for presentation at the user reception system. Accordingly, the elements of Filepp et al. Claim 10 corresponds to the principal element of Count I, particularly, the "user computer", the "content host" responsive to requests for content; and the "advertisement host" responsive to a request from the user computer based on the location designation. Likewise, Filepp et al. Claim 10 therefore corresponds to Merriman et al. Claim 16 and Count I.

As to Filepp et al. Claim 15, like Claim 10, Claim 15 is independent and concerns a network featuring the 3 principal elements noted in discussion of Claim 10, i.e., a "user reception system", "advertisement host" and a "content host." While Claim 15 is specifically directed to the "advertisement host" in a network also including the other principal elements of the network embodiment, it nonetheless corresponds to Filepp et al. Claim 10. Accordingly, for the reasons noted in discussion of Claim 10, Claim 15, likewise corresponds to Count I.

Continuing, Filepp et al. Claims 16-18 are also directed to network apparatus and depend, directly or indirectly from Claims 15. Therefore, Claims 16-18, likewise concern a network featuring the elements. Further, Filepp et al. Claims 16-18 concern features comparable to those recited in Merriman et al. Claims 2-4, specifically, basing selection of the advertising based on the number of times previously displayed to the user (16/2); selection of the advertising based on characteristics of the user (17/3) and selection of the advertising where the user characteristics are selected from a group (18/4). Accordingly, the noted dependent Claims 16-18 remain within the scope of Count I and maintain correspondence with Count I.

As to Filepp et al. Claim 19, like Claim 15 and 10, Claim 19 is also in independent form and concern a 3 element network. As in the case of Claim 15, while Claim 19 is directed to a specific network host, namely the content host, in a network including the other

element of the 3-principal-element network embodiment. Accordingly, Claim 19 corresponds to Claims 10 and 15, and for the reasons noted above concerning those claims, Claim 19, likewise, corresponds to Count I. Accordingly, for the reasons noted in discussion of Claim 10, Claim 15, likewise corresponds to Count I.

As noted in connection with discussion of the correspondence of Merriman et al claims to Count I of the proposed counts, Count I is directed to a method for operating the first form of the network described in Count I, which, as explained, includes 3 principal, elements in combination arranged to provide targeted advertising to a user's computer for presentation. Claims 28 of the Filepp et al. application correspond to proposed Count I.

Filepp et al. Claim 28 is in independent form, and is directed to a method for operating a network described as including 3 elements, specifically, a "user reception system"; "content host"; and an "advertisement host" which correspond to the network elements of Filepp et al. apparatus Claim 10, and Count I. Further, Filepp et al. Claim 28 recites some 6 steps for effecting presentation of the advertising at the user computer which correspond to the 6 steps recited in Count I. Specifically, Filepp et al. claim 28 recites the steps of: (1)"sending a request for information from the user reception system to the content host requesting information"; (2)"sending a reply from the content host ... containing ... content, ... screen partitions for display of advertising content and a location designation to the user reception system "; (3)"sending a request from the user reception system based on location designation to the advertisement host to provide an advertising banner for the advertising space"; (4)"selecting, at the advertising host an advertising banner"; (5)"sending a reply from the advertising host identifying the advertising banner to the user reception system"; and (6) "displaying the advertising banner in the advertising space at the user reception system." Since the steps of Claim 28 are within the scope of Count I, Claim 28 corresponds to Count I.

Filepp et al. Claim 29 is in independent form, corresponds to the proposed Count I and is directed to a method for operating a network, the network described as including 3 principal elements supported by the advertiser server, specifically, a "user reception system"; "content host"; an "advertisement host" and an "advertiser host ... including advertising content" which correspond to the network elements of Filepp et al. independent apparatus Claims 1, 5, 19, 20, and Count I. Further, Filepp et al. Claim 29 recites some 8 steps for effecting presentation of the advertising at the user reception system, which correspond to the 8 steps.

With regard to Filepp et al. method Claim 29, it recites the 6 steps of method Claim 28 described above for the 3 element network, plus 2 additional steps concerning: the sending of a request for advertising to the advertising host, and the advertiser host sending a reply including the advertising content for display at the user reception system. Specifically, Claim 29 includes the steps of the steps of: (1) "sending a request for information from the user reception system to the content host requesting information"; (2) "sending a reply from the content host responsive to the request ... containing ... content, ... partition space for display of advertising content and a location designation to the user reception system"; (3) "sending a request based on the location designation from the user reception system to the advertisement host to select an advertiser host"; (4) "selecting, at the advertisement host an advertiser host"; (5) "sending a reply from the advertisement host to the user reception system identifying the selected advertiser host"; (6) "sending a request from the user reception system to the advertiser host"; (7) "sending a reply from the advertiser host to the user reception system"; and, thereafter, (8) "displaying the advertising content at the user reception system".

Filepp et al. Claims 30-32 are directed to dependent claims that depend directly from Claim 29, and accordingly concern an operational method for network. Further, on review it is seen that dependent method Claims 30-32 include steps having parallel construction to the apparatus claims that depend from the apparatus independent claims; e.g., Claims

1, and its associated dependent apparatus Claims 2-4. According, for the reasons there describe, the steps recited in dependent Claims 30-32 are within the scope of network Count I.

Finally, Filepp et al. independent method Claim 24 is found to concern a network comparable to Claim 29 that further includes the method step limitation that the advertisement node selects an advertisement content, based on user characteristics. Accordingly, Claim 24 replicates Claim 31, above described as corresponding to Count I. Therefore, for the reasons noted in discussing Claim 31, Claim 24 is found to correspond to Count I.

Filepp et al. Claims 25, 26 are also directed to a network method, and depend, directly from Claim 24. Therefore, Claims 25, 26 are likewise considered to be method claims for a network. Further, claims 25, 26 are again found to be parallel constructions of Claims 32 and 30, respectively. Accordingly, for the reasons noted with respect to Claims 29-32 above, Claims 25, 26 correspond to Count V.

Finally, Filepp et al. Claim 27 is seen to be a method claim dependent form Claim 25, and accordingly, drawn to a network and comparable to Claim 29. Therefore, for the reasons noted with respect to Claim 29, Claim 27 is likewise considered to correspond to Count I.

EFFECTIVE FILING DATE

Applicants are entitled to a priority date of at least July 28, 1989 because the specification and drawings of the above-identified application are identical in all pertinent respects to the specification and drawings filed in each patent application to which Applicants claim benefit under 35 U.S.C. § 120 ("the benefit applications") beginning at least as early as the continuation-in-part application filed July 28, 1989. The benefit applications are U.S. Serial No. 08/740,043, filed October 23, 1996, now pending; which is a division of

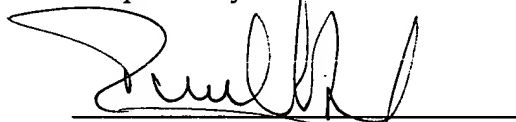
U.S. Serial No. 08/158,026, filed November 26, 1993, which issued January 14, 1997 as U.S. Patent No. 5,594,910; which is a division of U.S. Serial No. 07/388,156, filed July 28, 1989, which issued September 13, 1994 as U.S. Patent No. 5,347,632. Application Serial No. 07/388,156 is a continuation-in-part of U.S. Serial No. 07/328,790, filed March 23, 1989, now abandoned; which is a continuation-in-part of U.S. Serial No. 07/219,931, filed July 15, 1988, now abandoned. Applicants are entitled to an effective filing date of at least July 28, 1989.

CONCLUSION

Applicants' Claims 1-32 respectively, define the same subject matter as Merriman et al patent Claims 1-4, 7-10, 13, 16-20, 23-26, 29, 32-39, 42, and 45-48. An interference should be declared using the Count proposed herein.

Dated: September 6, 2000

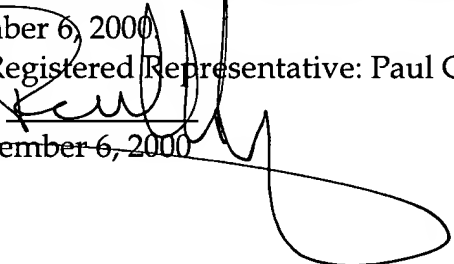
Respectfully submitted,


Paul C. Scifo, Esq
Reg. No.: 27,089
Attorney for Applicants

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Post Office to Addressee, Number: EK 351 472 461 US in an envelope addressed to the: Assistant Commissioner of Patents, Washington, D.C. 20231,

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Signature: 

Date: September 6, 2000